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In re Application of  
Waisanen  
Application No. 10/722,004  
Filed: November 25, 2003  
Attorney Docket No. 4005192-166351  
For: LASER SURVEY DEVICE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed September 25, 2006, which set an extendable three month period for reply. Applicant submitted an amendment after final on December 12, 2006. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the January 10, 2007 Advisory action. Accordingly, this application became abandoned on December 26, 2006. A Notice of Abandonment was mailed on May 7, 2007.


Applicant has submitted a RCE and required \$810.00 fee and an amendment as the submission in reply to the September 25, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 25, 2006 final Office action, and the \$1,540.00 petition fee.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, practitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from

the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, practitioner must notify the Office.

After the mailing of this decision the application will be forwarded to Technology Center AU 2877 for consideration of the RCE and amendment filed on July 29, 2008.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

  
Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions